

REMARKS

Allowed Claims 40-55

Applicant notes with appreciation that claims 40-55 are allowed; as such, these claims are not discussed further herein.

Allowable Claims 8, 10, 17, 20, and 27

Applicant notes with appreciation that claims 8, 10, 17, 20, and 27 are indicated as being directed to allowable subject matter. Claim 27 has been amended to be in independent form, including all the limitations of the base claim (claim 21) and any intervening claims (claim 26). As such, Applicant submits that claim 27 is in condition for allowance.

However, dependent claims 8, 10, 17, and 20 remain in dependent form in order to contain costs and due to Applicant's continuing belief that their respective independent claims define patentable subject matter (see below).

§103 Rejection - Claims 1-2 and 4-7

Independent claim 1 requires, *inter alia*, that the "blades comprise a leading face" with first and second face sections of the leading face related so that the "second face section extend[s] at a forward angle relative to said first section." On this point, the Examiner acknowledges that Selhorst "does not teach the paddles having two distinct faces." Therefore, the Examiner points to Lupton and states that Lupton shows "blades with a first leading face (106) and a second angled face (104)." Further, in the section of the Action labeled "Response to Arguments," the Examiner asserts "a forward direction of the device is not put forth." Applicant respectfully suggests that the Examiner is both ignoring explicit claim language and misconstruing Lupton.

The claim language plainly requires a "leading face." One of ordinary skill in the art would understand that "leading" means leading with respect to the direction of rotation. Thus,

the explicit claim language requires that the relevant face be leading with respect to the direction of rotation. Thus, the Examiner's assertion that "forward direction of the device is not put forth" is not correct. The forward direction is the direction of rotation, and the first and second face sections must be generally facing this direction. And, based on the rotational direction, the second face section must be at a forward angle relative to the first face section. It is undisputed that Lupton shows the putative second section (104) as being angled back with respect to the forward rotational direction of Lupton's rotating "centre section 28."¹ As such, the combination of Selhorst and Lupton, assuming *arguendo* that they can be properly combined, does not teach or suggest each and every limitation of independent claim 1. Accordingly, the §103 rejection must fail.

Applicant also notes that the Examiner states that "reversing the direction of the vanes and motor" of Lupton is somehow relevant to the patentability of the claimed invention. See Action, page 5. This is simply not the case. First, reversing the direction of the motor and vanes of Lupton would appear to create a manure collector, rather than a spreader, and would therefore be directly in contradiction to the fundamental purpose of both Lupton and Selhorst. And, it is unclear how such a device could work in the first place. Does such a device scrape manure off the ground? If so, how? Second, such a hypothetical change to Lupton is not suggested by any cited reference, and instead appears to be pure flight of fancy by the Examiner. Third, such a modification of Lupton would still result in the Lupton vanes have the second sections (104) angled back with respect to the newly established (due to the motor's reversing of direction) rotationally forward direction, and therefore would clearly still fail to fall

¹ If the Examiner asserts to the contrary, such is not put forth in the Action. And, the Examiner is reminded of the MPEP mandate that "the Examiner never lose sight of that in every case, the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal." MPEP §706.07. Thus, if the Examiner does not agree that Lupton is as set forth by Applicant on this point, Applicant respectfully demands that the Examiner fully set forth the Examiner's rationale for such an otherwise unfounded position, with specific and detailed citations to Lupton.

within the scope of claim 1. With all due respect, the Examiner's position on this point is at best misplaced.

Because independent claim 1 defines over the cited art, it necessarily follows that dependent claims 2, 4-7 likewise define patentable subject matter over the cited art.

With further regard to dependent claim 56, this claim requires, *inter alia*, that "said first face section is disposed closer to said axis than said second face section." On this point, the Examiner asserts that Lupton shows both "blades with a first leading face (104) and a second angled face (106)," and "wherein said first face section is disposed closer to said axis than said second face section." Applicant respectfully submits that even a cursory review of Lupton does not make the showing asserted by the Examiner. Assuming *arguendo* that Lupton's 104 is the claimed "first face section" (as asserted by the Examiner), and that Lupton's 106 is the claimed "second face section," (again as asserted by the Examiner), it is abundantly clear from Fig. 9 of Lupton that section 104 is farther from the axis of rotation than section 106. Thus, Lupton shows that the first face section (104) is farther from the axis of rotation than the second face section (106), while claim 56 requires the opposite. Unless "closer" somehow means "farther," Lupton cannot support the Examiner's position. Accordingly, Applicant submits that dependent claim 56 defines patentable subject matter over the cited art, even if claim 1 does not.

§103 Rejection - Claims 11-12, 14-16, and 18-19

Independent claim 11 requires, *inter alia*, that the "blades comprise a leading face" with first and second face sections of the leading face related so that the "second face section extend[s] at a forward angle relative to said first section." For reasons similar to those expressed above with respect to independent claim 1, Applicant submits that the combination of Selhorst and Lupton, assuming *arguendo* that they can be properly combined, does not teach or suggest each and every limitation of independent claim 11. Therefore, Applicant submits that

independent claim 11, and its dependent claims 12, 14, 16, and 19, define patentable subject matter over the cited art.

With further regard to dependent claim 15, Applicant submits that the "motor" teaching of Kneer does not cure any of the defects pointed out above with respect to independent claim 11, nor does the Examiner assert that Kneer does. As such, the addition of Kneer to Selhorst and Lupton, assuming *arguendo* that they can be properly combined, does not teach or suggest each and every limitation of dependent claim 15.

With further regard to dependent claim 18, Applicant submits that the "container" teaching of Kneer does not cure any of the defects pointed out above with respect to independent claim 11, nor does the Examiner assert that Kneer does. As such, the addition of Kneer to Selhorst and Lupton, assuming *arguendo* that they can be properly combined, does not teach or suggest each and every limitation of dependent claim 18.

§103 Rejection - Claims 21-26, 28-30

Independent claim 21 stands rejected under §103 over Lupton alone. Independent claim 21 requires, *inter alia*, that the "blades comprise a leading face" with first and second face sections of the leading face related so that the "second face section extend[s] at a forward angle relative to said first section." For reasons similar to those expressed above with respect to independent claim 1, Applicant submits that Lupton does not teach or suggest a structure meeting the limitation of "second face section extend[s] at a forward angle relative to said first section" found in independent claim 21. Further, Applicant requests the Examiner to supply legally sufficient support for the proposition that "it would have been obvious... that wood chips could have easily been spread using the Lupton device." Such a proposition seems to Applicant to be nothing more than an unsupported musing by the Examiner that finds no support in the record. Such is not permissible under the law of §103. Therefore, Applicant submits that

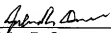
independent claim 21, and its dependent claims 22-26, and 30, define patentable subject matter over the cited art.

With further regard to dependent claims 28-29, Applicant submits that the "container" teaching of Kneer does not cure any of the defects pointed out above with respect to independent claim 21, nor does the Examiner assert that Kneer does. As such, the addition of Kneer to Selhorst and Lupton, assuming *arguendo* that they can be properly combined, does not teach or suggest each and every limitation of dependent claims 28-29.

In view of the above, Applicant submits that all presently pending claims are in condition for allowance, and notice of the same is respectfully requested

Respectfully submitted,
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